

**IN THE MATTER OF WASTE TECHNOLOGIES
INDUSTRIES, EAST LIVERPOOL, OHIO**

Consolidated RCRA Appeal Nos. 92-7, *et alia*

**ORDER DENYING REVIEW IN PART AND REMANDING IN
PART**

Decided July 24, 1992

Syllabus

This Order consolidates seven petitions for review of a February 3, 1992 decision by U.S. EPA Region 5. In that decision, the Region granted Waste Technologies Industries' (WTI's) request for a modification to its 1983 Resource, Conservation and Recovery Act permit. The 1983 permit allowed WTI to construct a commercial hazardous waste management facility in East Liverpool, Ohio. The February 3, 1992 modification allows WTI to add a spray dryer to its pollution control equipment. In addition to approving the modification request, the Region, *sua sponte*, decided to modify the permit to include the Port Authority for Columbiana County, Ohio, the property owner, as a co-permittee.

The following parties have filed petitions for review with the Board: the Port Authority for Columbiana County, Ohio, the Attorney General of the State of West Virginia, the City of Pittsburgh, PA, Constance W. Stein/SOS, Samuel N. Kusic, the Sierra Club-Allegheny Group, and Carol S. Hicks.

Held: Absent the consent of the permittee, the Region lacks the authority under 40 C.F.R. § 270.42 to modify the permit *sua sponte* to include the Port Authority of Columbiana County, Ohio as a co-permittee. The matter is therefore remanded and the Region is ordered to withdraw its proposal to modify the permit in this way. With regard to the remaining issues raised by the above-named petitioners, none satisfies the requirements for review under 40 C.F.R. § 124.19. Accordingly, review is denied.

***Before Environmental Appeals Judges Ronald L. McCallum
and Edward E. Reich.***

Opinion of the Board by Judge McCallum:

On June 24, 1983, Region 5 issued a permit under the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C.A. §§ 6901-6992k, authorizing Waste Technologies Industries (WTI) to construct a commercial hazardous waste management facility in East